



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/232,622	01/19/1999	ALAN CURTIS PERKINS	AT9-98-346	1621

7590 09/23/2005

JAMES J MURPHY  
5400 RENAISSANCE TOWER  
1201 ELEM STREET  
DALLAS, TX 752702199

EXAMINER

VU, KIEU D

ART UNIT	PAPER NUMBER
----------	--------------

2173

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/232,622

Applicant(s)

PERKINS ET AL.

Examiner

Kieu D. Vu

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-9, 11, 13-19, 21, 23-29 is/are rejected.
- 7) ☒ Claim(s) 2, 10, 12, 20, 22 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This Office Action is in response to the Amendment filed 06/15/05.
2. Claims 1-30 are pending.

#### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 21-30 are rejected under 35 U.S.C. 101 because the "computer usable medium" as claimed is not limited to tangible medium when it is interpreted in light of the specification (see specification, page 8, lines 1-18).

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3-9, 11, 13-19, 21, 23-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bereiter et al ("Bereiter", USP 5917492) and Alexander, III et al ("Alexander", USP 6002872).

Regarding claims 1, 11, and 21, Bereiter teaches displaying hierarchical dependencies comprising the steps of selecting a node from a node list displayed in one of a first and a second window region (selecting second node in window 212) and displaying a first set of nodes which is subnodes associated with the selected node in said first window region (displaying in window 216 subnodes of

Art Unit: 2173

selected second node). Bereiter differs from the claim in that Bereiter does not teach that the node is a routine. However, such feature is known in the art as taught by Alexander. Alexander teaches steps for monitoring performance of a program (col 2, lines 38-40) wherein each routine in a program is represented as a node in a tree structure (col 2, lines 55-60). It would have been obvious to one of ordinary skill in the art, having the teaching of Bereiter and Alexander before him at the time the invention was made, to use nodes to represent routines in displaying hierarchical dependencies taught by Bereiter so that Bereiter's optimizing screen estate method (col 2, lines 20-23) can be effectively used in monitoring program performance.

Regarding claims 3, 13, and 23, Bereiter teaches node list is contained in a plurality of data structures stored in a database (col 4, lines 5-7).

Regarding claims 4, 14, and 24, Bereiter teaches displaying said first set of nodes in a tree hierarchy (Fig. 6D) (col 1, lines 8-13)

Regarding claims 5, 15, and 25, Bereiter teaches selecting an icon associated with said node wherein said icon flags said node as having an undisplayed node dependency ("+" shows the node has not been expanded) (col 8, lines 10-34).

Regarding claims 6, 16, and 26, Bereiter teaches the step of accessing a data structure stored in a database (col 4, lines 5-7), said data structure having an entry corresponding to said node, and wherein said step of displaying said first set of nodes comprises the step of displaying said first set of nodes in response to a node identifier, corresponding to said first set of nodes, contained

Art Unit: 2173

in a portion of said entry (Fig. 6A) (nodes are displayed in response to user's click on the node identifier 200a) (col 8, lines 24-33).

Regarding claims 7, 17, and 27, Bereiter teaches displaying said first set of nodes in response to said node identifier of said entry (nodes are displayed in response to user's click on the node identifier 200a) (col 8, lines 24-33).

Regarding claims 8, 18, and 28, Bereiter teaches displaying second set of nodes in response to said node identifier of said entry (nodes are displayed in response to user's click on the node identifier 200a) (col 8, lines 24-33).

Regarding claims 9, 19, and 29, Bereiter teaches specifying a node type (root node or child node) and wherein said step of displaying said first set of nodes comprises the step of displaying said first set of nodes in response to said node type (col 8, lines 19-34).

***Allowable Subject Matter***

7. Claims 2, 10, 12, 20, 22 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 2, 12, and 22, none of the prior art of record teaches the limitations "said first window region comprises a calls window region and said second window region comprises a called-by window region" in the specific combination as recited in claims 2, 12, and 22.

Art Unit: 2173

Regarding claims 10, 20, and 30, none of the prior art of record teaches the limitations "displaying said routine list in said first window region and said second window region" in the specific combination as recited in claims 10, 20, and 30.

***Response to Applicant's arguments***

9. Applicant's arguments filed 06/15/05 have been fully considered but they are not persuasive.

In response to Applicant's argument "Neither Bereiter nor Alexander, taken individually or in combination, teaches or suggests "displaying one of a first set of routines called by said routine in said first window region and a second set of routines calling routine in said second window region in response to said selection" as recited in claims 1, 11, and 21" it is noted that such is not quite the case since Bereiter teaches displaying hierarchical dependencies comprising the steps of selecting a node from a node list displayed in one of a first and a second window region (selecting second node in window 212) and displaying one of a first set of nodes which is subnodes associated with the selected node (displaying in window 216 subnodes of selected second node). Bereiter differs from the claim in that Bereiter does not teach that the node is a routine. However, such feature is known in the art as taught by Alexander. Alexander teaches steps for monitoring performance of a program (col 2, lines 38-40) wherein each routine in a program is represented as a node in a tree structure (col 2, lines 55-60). It would have been obvious to one of ordinary skill in the art, having the teaching of Bereiter and Alexander before him at the time the invention was made, to use nodes to represent routines in displaying hierarchical dependencies

Art Unit: 2173

taught by Bereiter so that Bereiter's optimizing screen estate method (col 2, lines 20-23) can be effectively used in monitoring program performance.

In response to Applicant's argument "the present invention provides a method and system that allows.....Bereiter only provides an ability to display "child nodes" for a "parent node" and does not provide the ability to display "parent nodes" for a child node", it is noted that such is not quite the case since the claim recites "displaying one of (emphasis added) a first set ....and a second set ...", the claim does not recite displaying both of a first set ...and a second set...at the same time.

In response to Applicant's argument that "Alexander does not teach or suggest "displaying one of a first set .....said selection" as recited in claims 1, 11, and 21" it is noted that this argument attacks the reference individually since Bereiter teaches displaying a first set of nodes which is subnodes associated with the selected node in said first window region as presented above, Alexander is combined in the rejection to teach that each routine can be represented as a node in a tree structure.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to Applicant's argument that Bereiter's and Alexander's teachings cannot be combined to teach the claimed invention, it is noted that

Art Unit: 2173

such is not quite the case. Bereiter teaches displaying nodes of a tree hierarchy and Alexander teaches routine in a program is represented as a node in a tree structure, the teachings are analogous to be combined.

In response to Applicant's argument that "Bereiter and Alexander, either taken alone or in combination, do not teach or suggest that the routine list is contained in a plurality of data structures stored in a database", it is noted that such is not quite the case since Bereiter does teach the view (i.e. the context of a tree-based hierarchy of node) may represent a database (col 4, lines 5-7), therefore, Bereiter in view of Alexander does teach routine list is contained in a plurality of data structures stored in a database.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kieu D. Vu. The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at 571-272-4057.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached at 571-272-4048.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

571-273-8300

and / or:

571-273-4057 (use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper / amendment be faxed directly to them on occasions).



Art Unit: 2173

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kieu D. Vu

A handwritten signature in black ink, appearing to read "Kieu D. Vu", written in a cursive style.